

ORIGINAL

IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus
City Schools, :

Appellant, :

v. :

Franklin County Board of Revision,
Franklin County Auditor, and 3600
Sullivant Avenue, LLC :

Appellees. :

Case No. 14-0723

Appeal from the Ohio Board of
Tax Appeals - Case No. 2011-2109

FILED
MAY 08 2014
BOARD OF TAX APPEALS
COLUMBUS, OHIO

NOTICE OF APPEAL OF THE BOARD OF EDUCATION
COLUMBUS CITY SCHOOLS

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Board of Education of the Columbus
City Schools,

Appellant,

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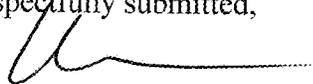
Appeal from the Ohio Board of
Tax Appeals - Case No. 2011-2109

Appellees.

NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF THE
COLUMBUS CITY SCHOOLS

Now comes the Appellant, the Board of Education of the Columbus City School District, and gives notice of appeal to the Supreme Court of Ohio from the decision of the Ohio Board of Tax Appeals in the case of *Board of Education of the Columbus City Schools v. Franklin County Board of Revision, Franklin County Auditor, and 3600 Sullivant Avenue, LLC, Inc.*, BTA Case No. 2011-2109, rendered on April 10, 2014, a copy of which is attached hereto as Exhibit B. The Errors complained of therein are set forth herein as Exhibit A.

Respectfully submitted,



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Attorneys for Appellant
Board of Education of the Columbus City
School District

EXHIBIT A - STATEMENT OF ERRORS

(1) The Ohio Board of Tax Appeals (BTA) erred in holding that an appraisal is competent and probative evidence of value merely because: (1) “It provides an opinion of value as of tax lien date; (2) “was prepared for tax valuation purposes;” and (3) was “attested to by a qualified expert.”

(2) The BTA erred by failing to conduct a de novo review of the evidence in the record;

(3) The BTA misapplied this Court’s ruling in *Dublin City Schools Bd. of Edn. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2013-Ohio-4543, *Motion for Reconsideration pending*.

(4) The BTA erred by failing to specifically state the facts and figures upon which its decision is based.

(5) The BTA erred by failing to independently determine the true value of the subject property.

(6) The BTA erred by accepting an appraisal that contained improper mathematical calculations and impermissible deductions without any analysis whatsoever of these errors and why the BTA accepted them despite its rejection of the same errors and deductions in other cases.

(7) The BTA erred by failing to specifically address any of the arguments presented by the Board of Education that demonstrated the flaws in and insufficiency of the evidence presented by the property owners.

(8) The BTA erred by failing to accept the Auditor’s original value as the default value of the subject property.

PROOF OF SERVICE ON THE OHIO BOARD OF TAX APPEALS

I hereby certify that a true and complete copy of the foregoing notice of appeal was served upon the Clerk of the Ohio Board of Tax Appeals, as is evidenced by its filing stamp set forth hereon.



Mark Gillis (0066908)
Attorney for Appellant

CERTIFICATE OF SERVICE BY CERTIFIED MAIL

I hereby certify that a true and complete copy of the foregoing notice of appeal was served on the following by certified mail, return receipt requested, with postage prepaid, this 8 th day of May, 2014.

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Mark H. Gillis (0066908)
Attorney for Appellant

IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus
City Schools, :

Appellant, :

v. :

Franklin County Board of Revision,
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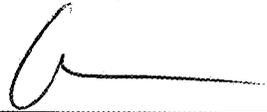
Appellees.

REQUEST TO CERTIFY ORIGINAL PAPERS TO THE SUPREME COURT OF OHIO

TO: The Clerk of the Ohio Board of Tax Appeals:

The Appellant, who has filed a notice of appeal with the Supreme Court, makes this written demand upon the Clerk and this Board to certify the record of its proceedings and the original papers of this Board and statutory transcript of the Board of Revision in the case of *Board of Education of the Columbus City Schools v. Franklin County Board of Revision, Franklin County Auditor, and 3600 Sullivant Avenue, LLC, Inc.*, BTA Case No. 2011-2109, rendered on April 10, 2014, to the Supreme Court of Ohio within 30 days of service hereof as set forth in R.C. 5717.04.

Respectfully submitted,



Mark Gillis (0066908)
Rich & Gillis Law Group, LLC

Attorneys for Appellant Board of Education

C O BOARD OF TAX APPEAL

Board of Education of the Columbus)	CASE NO(S). 2011-2109
City Schools,)	
)	(REAL PROPERTY TAX)
Appellant(s),)	
)	DECISION AND ORDER
vs.)	
)	
Franklin County Board of Revision, et al.,)	
)	
Appellees.)	

APPEARANCES:

- For the Appellant - Rich & Gillis Law Group, LLC
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- For the Appellee Property Owner - McFadden, Winner, Savage & Segerman, LLP
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Columbus, Ohio 43215-5188

Entered APR 10 2014

Mr. Williamson, Mr. Johrendt, and Mr. Harbarger concur.

Appellant appeals a decision of the board of revision ("BOR") which determined the value of the subject real property, parcel number(s) 010-212107-00. This matter is now considered upon the notice of appeal and the transcript certified by the BOR pursuant to R.C. 5717.01. The subject's total true value was initially assessed at \$2,750,000. A decrease complaint was filed with the BOR seeking a reduction in value to \$2,400,000. Appellant filed a countercomplaint in support of maintaining the auditor's values. The BOR issued a decision reducing the total true value of the subject property to \$1,520,000, which led to the present appeal.

When cases are appealed from a board of revision to this board, an appellant must prove the adjustment in value requested. See, e.g., *Shinkle v. Ashtabula Cty. Bd. of Revision*, 135 Ohio St.3d 227, 2013-Ohio-397. While it is clear that valuation determinations made by county boards of revision are not presumptively correct, see, e.g., *Vandalia-Butler City School Dist. Bd. of Edn. v. Montgomery Cty. Bd. of Revision*, 130 Ohio St.3d 291, 2011-Ohio-5078, it is equally clear that a decision made by a board of revision

is entitled to some consideration & that an appellant has an affirmative burden to demonstrate entitlement to the value claimed. See, e.g., *Amsdell v. Cuyahoga Cty. Bd. of Revision* (1994), 69 Ohio St.3d 572.

In its recent decision in *Dublin City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2013-Ohio-4543, the court reaffirmed the preceding principles when it considered a situation in which a board of revision had reduced the value of the property in issue, leading to an appeal by the affected board of education. The court first noted that because the board of revision adopted the property owner's evidence to establish value, the "burden of going forward with evidence [shifted] to the board of education on appeal to the BTA to present 'competent and probative evidence to make its case.' *** However, the board of education did not present any evidence to support its own valuation or the auditor's valuation and instead chose to attack [the owner's expert's] valuation through cross-examination. The board of education thereby failed to sustain its burden." Id. at ¶16. Continuing, the court held that "when a taxpayer presents evidence contrary to the auditor's valuation and no evidence is offered to support the auditor's valuation, the BTA may not simply reinstate the auditor's determination." See, also, *Bedford Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 115 Ohio St.3d 449, 2007-Ohio-5237.

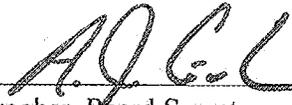
As the Supreme Court of Ohio has consistently held, "[t]he best method of determining value, when such information is available, is an actual sale of such property between one who is willing to sell but not compelled to do so and one who is willing to buy but not compelled to do so. *** However, such information is not usually available, and thus an appraisal becomes necessary." *State ex rel. Park Invest. Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. Such is the case in this matter, as the record does not indicate that the subject property "recently" transferred through a qualifying sale. Upon review of appellee's appraisal evidence, which provides an opinion of value as of tax lien date, was prepared for tax valuation purposes, and attested to by a qualified expert, we find the appraisal to be competent and probative and the value conclusion reasonable and well-supported. While we acknowledge the arguments made by the appellant, inherent in the appraisal process is the fact that an appraiser must necessarily make a wide variety of subjective judgments in selecting the data to rely upon, effect adjustments deemed necessary to render such data usable, and interpret and evaluate the information gathered in forming an opinion. See, e.g., *Developers Diversified Realty Corp. v. Ashland Cty. Bd. of Revision* (Mar. 17, 2000), BTA Nos. 1998-A-500, et seq., unreported; *Armco Inc. v. Richland Cty. Bd. of Revision* (Nov. 19, 2004), BTA No. 2003-A-1058, unreported.

It is therefore the order of this board that the true and taxable values of the subject property, as of January 1, 2008, were as follows:

TRUE VALUE	TAXABLE VALUE
\$1,520,000	\$532,000

It is the order of the Board of Tax Appeals that the subject property be assessed in conformity with this decision and order.

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.



A.J. Groeber, Board Secretary